

103^D CONGRESS
1ST SESSION

H. R. 414

To amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. STUMP introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (c) of section 469 of the Internal Revenue
4 Code of 1986 (relating to passive activity losses and cred-
5 its limited) is amended by adding at the end the following
6 new paragraphs:

7 “(7) TAXPAYERS ENGAGED IN THE REAL PROP-
8 ERTY BUSINESS.—In the case of a taxpayer engaged
9 in the real property business, the determination of

1 what constitutes an activity and whether an activity
2 is a passive activity shall be made by treating the
3 taxpayer's rental real property operations, undertak-
4 ings and activities in the same manner as nonrental
5 trade or business operations, undertakings, and ac-
6 tivities.

7 “(8) INDIVIDUALS ENGAGED IN THE REAL
8 PROPERTY BUSINESS.—For purposes of paragraph
9 (7), an individual is engaged in the real property
10 business if—

11 “(A) such individual spends at least 50
12 percent of such individual's working time in
13 real property operations; and

14 “(B) such individual spends more than 500
15 hours during the taxable year in real property
16 operations.

17 “(9) REAL PROPERTY OPERATIONS.—For pur-
18 poses of paragraph (8), the term ‘real property oper-
19 ations’ means any real property development, rede-
20 velopment, construction, reconstruction, acquisition,
21 conversion, rental, operation, management, leasing,
22 brokerage, appraisal, and finance operations.

23 “(10) WORKING TIME.—For purposes of para-
24 graph (8), the term ‘working time’ means any time
25 spent as an employee, sole proprietor, S corporation

1 shareholder, partner in a partnership, or beneficiary
2 of a trust or estate.

3 “(11) CLOSELY HELD C CORPORATIONS EN-
4 GAGED IN THE REAL PROPERTY BUSINESS.—For
5 purposes of paragraph (7), a closely held C corpora-
6 tion is engaged in the real property business if—

7 “(A) 1 or more shareholders owning stock
8 representing more than 50 percent (by value) of
9 the outstanding stock of such corporation mate-
10 rially participate in the aggregate real property
11 activities of such corporation; or

12 “(B) such corporation meets the require-
13 ments of section 465(c)(7)(C) (without regard
14 to clause (iv)) with respect to the aggregate real
15 property activities of such corporation.”

16 (b)(1) Paragraph (2) of section 469(c) of such Code
17 is amended to read as follows:

18 “(2) PASSIVE ACTIVITY INCLUDES CERTAIN
19 RENTAL ACTIVITIES.—Except for rental activities
20 treated in the same manner as nonrental trade or
21 business activities pursuant to paragraph (7), each
22 rental activity is a passive activity without regard to
23 whether or not the taxpayer materially participates
24 in the rental activity.”

1 (2) Paragraph (4) of such section 469(c) is amended
2 to read as follows:

3 “(4) MATERIAL PARTICIPATION NOT REQUIRED
4 FOR PARAGRAPH (3).—Paragraph (3) shall be ap-
5 plied without regard to whether or not the taxpayer
6 materially participates in the activity.”

7 (c) The amendments made by this section shall apply
8 to taxable years beginning after December 31, 1993.

○